

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

SHAUN DARNELL GARLAND,

Plaintiff,

v.

KATHLEEN ALLISON, et al.,

Defendants.

No. 2:21-CV-0796-DAD-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court are the following motions related to discovery and scheduling:

ECF No. 56 Defendants' motion to compel Plaintiff to attend his deposition.

ECF No. 60 Plaintiff's motion to compel Defendants to provide discovery.

ECF No. 62 Defendants' motion to stay discovery.

ECF No. 68 Defendants' motion to modify schedule.

The Court first addresses Defendants' motion to compel regarding Plaintiff's deposition, ECF No. 56. As established by Defendants' motion, and exhibits provided therewith, Plaintiff failed to answer questions at his October 12, 2022. deposition, in violation of the Federal Rules of Civil Procedure. See ECF No. 56. Plaintiff has not filed an opposition to Defendants' motion. Good cause appearing therefor, and in light of Plaintiff's non-opposition, the Court will

1 grant Defendants' motion to compel and order Plaintiff to answer questions posed at a properly
2 noticed deposition. The Court declines to order Plaintiff, who is a prisoner proceeding pro se and
3 in forma pauperis, to pay Defendants' expenses under Federal Rule of Civil Procedure 37.

4 Next, the Court addresses Defendants' motions related to scheduling, ECF Nos. 62
5 and 68. In these motions Defendants seek relief from the Court's scheduling order pending
6 resolution of pending discovery issues. Good cause appearing therefor, Defendants' motions will
7 be granted. The current schedule will be vacated, and further discovery will be stayed pending
8 further order of the Court except as ordered below. As of the filing of the current discovery
9 motions, the time to conduct discovery had expired. The Court will set a new dispositive motion
10 filing deadline.

11 Finally, the Court addresses Plaintiff's motion to compel discovery response, ECF
12 No. 60. Plaintiff recounts in detail various conversations he has had with defense counsel
13 regarding discovery. Plaintiff has not, however, demonstrated that he ever served any formal
14 discovery requests or that Defendants failed to provide adequate responses to any properly served
15 discovery request. Therefore, there is no basis upon which this Court can order further responses
16 by Defendants. Plaintiff's motion to compel will be denied.

17 Accordingly, IT IS HEREBY ORDERED as follows:

- 18 1. Defendants' motion to compel, ECF No. 56, is granted.
- 19 2. Plaintiff shall answer questions at a properly noticed deposition to be set
20 within 30 days of the date of this order.
- 21 3. Defendants' motions related to scheduling, ECF Nos. 62 and 68, are
22 granted.
- 23 4. The schedule for this case is vacated.
- 24 5. Plaintiff's motion to compel, ECF No.; 60, is denied.

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1 6. The Court sua sponte re-sets the dispositive motion filing deadline to 120
2 days from the date of this order.

3 7. The Clerk of the Court is directed to terminate ECF Nos. 56, 60, 62, and 68
4 as pending motions.

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6 Dated: June 5, 2023

A handwritten signature in dark ink, appearing to read "Dennis M. Cota", written over a horizontal line.

DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE